

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DONALD JONES,

Plaintiff,

v.

CHARLES E. SAMUELS, JR., et al.,

Defendants.

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Civ. No. 14-139 (NLH)

OPINION and ORDER

APPEARANCES:

Donald Jones, #54517-066
FCI Allenwood
P.O. Box 2000
White Deer, PA 17887
Plaintiff, pro se

HILLMAN, District Judge

In an Order dated August 12, 2014 (ECF No. 25), this Court dismissed Plaintiff's claims against all Defendants and this civil case was terminated. Plaintiff filed an appeal which is currently pending before the Third Circuit. See Jones v. Samuels, et al., App. No. 14-3736.

Recently, however, Plaintiff submitted an "Amended Complaint" (ECF No. 35) and a Motion to Reopen (ECF No. 36) in this matter. The general rule is that the filing of a notice of appeal divests the district court of jurisdiction over a case pending resolution of the appeal. See Mitchell v. Henry, 255 F. App'x 684, 686 (3d Cir. 2007); Pensiero v. Lingle, 847 F.2d 90, 98 (3d Cir. 1988); Venen v. Sweet, 758 F.2d 117, 121 (3d Cir.

1985). Thus, to the extent Plaintiff seeks to reopen the previously dismissed matter now on appeal this Court is without jurisdiction to consider Plaintiff's requests and the motion will be dismissed for lack of jurisdiction.

To the extent Plaintiff wishes to commence a new case, he may do so by filing a complaint which is not labeled "Amended Complaint" and which does not reference the docket number associated with this existing case. This Court makes no findings as to the merits of such an action nor whether it is so related to the earlier matter as to be covered by the appellate stay described above. Plaintiff is on notice that if he chooses to bring a separate action, he is obligated to pay another filing fee. Therefore,

IT IS on this 11th day of June, 2015

ORDERED that this Court is without jurisdiction to consider Plaintiff's recently submitted "Amended Complaint" (ECF No. 35) and Motion to Reopen (ECF No. 36); therefore, to the extent necessary, they are dismissed for lack of jurisdiction; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order upon Plaintiff by regular U.S. mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN
United States District Judge